



Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10004-1482
Telephone: +1 (212) 837-6000
Fax: +1 (212) 422-4726
hugheshubbard.com

Marc A. Weinstein
Partner
Direct Dial: +1 (212) 837-6460
Direct Fax: +1 (212) 299-6460
marc.weinstein@hugheshubbard.com

BY ECF & HAND DELIVERY

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

December 6, 2023

Re: *In re Customs and Tax Administration of the Kingdom of Denmark
(Skatteforvaltningen) Tax Refund Scheme Litigation, 18-md-2865 (LAK)*¹

Dear Judge Kaplan:

We write on behalf of plaintiff Skatteforvaltningen (“SKAT”) to respectfully request that the Court hold a conference to address the schedule for further proceedings and trial of the actions consolidated in this multidistrict litigation, in light of the Court’s November 20, 2023 decisions denying defendants’ and SKAT’s respective summary judgment motions (ECF Nos. 924, 925).

The Court’s most recent scheduling order, Pretrial Order No. 29 (ECF No. 675), does not include a schedule for proceedings after the parties’ respective summary judgment motions were filed. As such, SKAT proposes that the Court address at the proposed conference whether any other defendant, aside from the bellwether defendants, will seek to move for summary judgment on grounds not covered by the bellwether defendants’ summary judgment motion, and set a schedule for any such further summary judgment motions.

SKAT also proposes that the Court address trial of the actions originally filed in this District and consolidated in this multidistrict litigation. SKAT continues to propose that in lieu of selecting bellwether cases for trial, the cases should be consolidated in three main groups, resulting in only three trials in this District: (i) all cases in which at least one of Richard Markowitz, John van Merkensteijn, Robert Klugman, or Michael Ben-Jacob is a defendant; (ii) all cases in which at least one of Roger Lehman, Matthew Tucci, or Doston Bradley is a defendant; and (iii) all cases in which the defendant pension plan’s custodian was ED&F Man Capital Markets, Ltd.² As SKAT previously explained, the cases in each of these three groups

1. This letter motion relates to all cases.

2. See Ltr. addressed to Judge Lewis A. Kaplan from Marc A. Weinstein dated Feb. 26, 2020 re: Joint Status Report, ECF No. 279, at 4-5; Mar. 5, 2020 Conference Tr. at 17:13-21:7.

present similar fact patterns, which will permit an economy of scale for trial of each group. SKAT proposes that the group of cases involving defendants Markowitz, van Merkensteijn, Klugman and Ben-Jacob be tried first, and that the Court set a date for trial and schedule for pretrial submissions for those cases.

Respectfully submitted,

/s/ Marc A. Weinstein
Marc A. Weinstein

cc: all counsel of record (via ECF)